



November 13, 2003

**CITY COUNCIL**  
Jack Hawxhurst  
*Mayor*

Cynthia Brock  
*Mayor Pro Tempore*

Jean W. Blois  
*Councilmember*

Margaret Connell  
*Councilmember*

Jonny D. Wallis  
*Councilmember*

**CITY MANAGER**  
Frederick C. Stouder

Nikki Mizwinski, Local Agency Coordinator  
Office of Local Assistance  
California Integrated Waste Management Board  
1001 I Street  
P.O. Box 4025  
Sacramento, CA 95812-4025

**SUBJECT:** City of Goleta Regional Agency Agreement

Dear Ms. Mizwinski,

Attached for your review is a copy of the executed Regional Agency agreement between the City of Goleta and Santa Barbara County for solid waste reporting purposes. This agreement was prepared and adopted in accordance all applicable (CIWMB) guidelines and is designed to maintain the existing solid waste management programs and allow the County of Santa Barbara to continue to prepare the mandated annual disposal reports. As you know, the California Integrated Waste Management Board (CIWMB) approved a compliance schedule for adoption of this agreement on September, 17, 2003. Please process this agreement for final approval by the CIWMB at your earliest convenience.

If you need any additional information, please contact Steven Wagner or Kimberly Nilsson of my staff at (805) 961-7500. I would like to thank you in advance for your assistance with this project.

Sincerely,

FREDERICK C. STOUDER  
City Manager

Attachment

cc: Steven Wagner, Community Services Director

# **Joint Exercise of Powers Agreement**

**Between the**

**City of Goleta**

**and the**

**County of Santa Barbara**

**Establishing the Santa Barbara County  
Regional Integrated Waste Management Reporting  
Authority**

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Joint Exercise of Powers Agreement  
Between the  
City of Goleta and the County of Santa Barbara Establishing the Santa Barbara  
County Regional Integrated Waste Management Reporting Authority

This "Joint Exercise of Powers Agreement Between the City of Goleta and the County of Santa Barbara Establishing the Santa Barbara County Regional Integrated Waste Management Reporting Authority" ("Agreement") is made by and between the City of Goleta, California, ("City") and the County of Santa Barbara, ("County") (collectively, as the "Parties") and is dated for reference purposes, and is to be effective as of November 4, 2003;

**WITNESSETH:**

WHEREAS, California Government Code sections 6500 *et seq.*, commonly known as the Joint Exercise of Powers Act, provides that two or more public agencies may by agreement jointly exercise any power common to the respective parties; and

WHEREAS, the City incorporated on February 1, 2002, as a municipal corporation organized under the general laws of the State of California; and

WHEREAS, County is a political subdivision of the State of California; and

WHEREAS, the California Integrated Waste Management Act of 1989 (commonly referred to as AB 939), codified in part at California Public Resources Code sections 40000 *et seq.*, mandates that cities and counties prepare and implement plans for the diversion of solid waste from disposal; and

WHEREAS, the California Integrated Waste Management Board, in partial implementation of AB 939, has promulgated regulations promoting material reuse and recycling and diversion reporting by counties and cities; and

WHEREAS, California Public Resources Code Sections 40970 - 40975 allow cities and counties to form regional agencies to implement Integrated Waste Management Plans in order to reduce the cost of reporting and tracking of disposal and diversion programs and to increase the diversion of solid waste from disposal facilities; and

WHEREAS, it is the intent of the parties to establish a Joint Powers Agency, or Regional Agency that shall have the powers of and be a Regional Agency as defined in Public Resources Code Sections 40970, *et seq.*;

WHEREAS, it is the intent of the parties to limit the activities of the Regional Agency established pursuant to this Agreement, to (a) maintaining aggregated AB 939 integrated waste management Planning Elements for the parties by joint use of the County unincorporated area IWM Planning Elements and (b) aggregating the County disposal based diversion annual reporting system to meet the parties' obligations to the CIWMB regarding AB 939 requirements;

and

WHEREAS, it is the intent of the parties that this Agreement be contingent upon and remain in effect so long as the County provides waste management collection, recycling processing and disposal services to the City by way of County exclusive franchise agreements with private haulers; and

WHEREAS, County collects an 8% program fee from the solid waste enterprises that operate within City for the implementation of a Countywide Source Reduction and Recycling Element and a Household Hazardous Waste Element in compliance with California Public Resources Code sections 40000 *et seq.* and AB 939; and

WHEREAS, the Parties have determined that it would be to their mutual advantage and the public benefit to coordinate their annual reporting compliance with AB 939's diversion requirements; and

WHEREAS, the requirements for forming a Regional Agency as set forth in PRC Section 40975 have been met as set forth in Attachment "A" to this Agreement; and

WHEREAS, the Parties, by means of this Agreement, desire to establish a procedure for such joint exercise of power and authority.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the Parties agree as follows:

## **ARTICLE I**

### **DEFINITIONS**

**Section 1.1. Definitions.** The words and terms in this Article shall, for the purpose hereof, have the meanings herein specified.

"AB 939" means The California Integrated Waste Management Act of 1989, as amended.

"Act" means Articles 1 through 4 (commencing with Section 6500) of Chapter 5, Division 7, Title 1 of the Government Code of the State of California.

"Annual Reports" means the reports required by the State of California to measure compliance with the provisions of AB 939.

"Authority" or "Reporting Authority" means the Santa Barbara County Regional Integrated Waste Management Reporting Authority formed pursuant to the Act and California Public Resources Code sections 40970 - 40975 and approved by the CIWMB.

"Authority Board" or "Reporting Authority Board" means the Board of Directors of the Authority consisting of one representative designated by the City Council of City and two representatives designated by the Board of Supervisors of the County of Santa Barbara.

*"Authority Manager" or "Reporting Authority Manager"* means the Director of Solid Waste and Utilities Division, County of Santa Barbara, or a delegated employee of Solid Waste and Utilities Division.

*"City"* means the City of Goleta, California.

*"CIWMB"* means the California Integrated Waste Management Board.

*"County"* means the County of Santa Barbara.

*"Director"* means any person serving as the representative of a Member on the Board.

*"Fiscal Year"* means any year beginning July 1 and ending June 30.

*"HHWE"* means the Countywide Household Hazardous Waste Element and incorporated herein by this reference.

*"IWM"* means Integrated Waste Management.

*"Member" or "Party"* means any "public agency," as that term is defined in the Act, which is a Party to this Agreement.

*"NDFE"* means the Countywide Non-Disposal Facility Element and incorporated herein by this reference.

*"Regional Agency IWM Plans"* means the County unincorporated area IWM Planning Elements which shall become the Planning Elements for both the County unincorporated areas and the City. Pursuant to this Agreement, the Regional Agency shall be empowered with the responsibility for the preparation and approval of these Planning Elements (SRRE, HHWE, NDFE, and Siting Element) and or any required revisions, and the submission of said Planning Elements to the CIWMB as required.

*"SRRE"* means Source Reduction and Recycling Element and incorporated herein by this reference.

## **ARTICLE II**

### **GENERAL PROVISIONS**

**Section 2.1. Creation of the Regional Agency ("Authority" or "Reporting Authority").** Pursuant to Section 40971 of the Public Resources Code and 6502 of the Act, there is hereby created a public entity separate and independent from the Parties hereto, to be known as the "Santa Barbara County Regional Agency for Integrated Waste Planning and Diversion Reporting." The boundaries of the Regional Agency shall be coextensive with those of the County unincorporated area and the City.

(a) Within ten (10) days after the effective date of this Agreement, the Authority shall cause a statement of the information concerning the Authority, its

Members and Directors required by California Government Code Section 53051 to be filed with the office of the California Secretary of State and with the County Clerk of each county in which the Authority maintains an office, and within ten (10) days after any amendment which makes any change in the facts required to be stated pursuant to Subdivision (a) of such Section, a statement of such facts also shall be filed as provided therein.

(b) The Parties shall submit this Agreement to the CIWMB for its approval pursuant to California Public Resources Code section 40975(a) at the time the regional agency integrated waste management plan is submitted to CIWMB for review and approval.

**Section 2.2. Purpose.** The purpose of the Authority is to operate as a regional agency pursuant to California Public Resources Code sections 40970 – 40975 and to provide AB 939 reporting compliance. The Reporting Authority will be responsible for compiling disposal information from haulers and facility operators for compliance with PRC Sections 41780 and 41821.5, preparing one consolidated Annual Report for the reporting of progress toward AB939 objectives, and submitting such information to the CIWMB. Authority is not responsible for any other function, including but not limited to the implementation of AB 939 programs and operation of facilities.

**Section 2.3. Term.** The term of this Agreement shall be from the time it has been executed by the parties, on the day and year first written above, continuing on for that period of time that the County is providing refuse collection, recycling and disposal services to the City, or when otherwise terminated by the parties pursuant to the terms of this Agreement.

**Section 2.4. Funding.** No funds shall pass between the parties under the terms of this Agreement. The Regional Agency herein created shall have no budget, as the staff and funding of the planning and reporting efforts shall be provided by the County, as the aggregating of the planning and reporting efforts will result in less cost to the County and the City than would be the case if the County and the City were required to disaggregate the planning and reporting efforts.

**Section 2.5. Budget.** The Regional Agency shall not have a budget. All work conducted pursuant to this Agreement shall be identified in the County Budget and approved by the County Board of Supervisors as part of its regular, annual budget proceeding.

**Section 2.6. Assets and Liabilities.** The Regional Agency shall have no assets or liabilities, except that each party shall be responsible for its prorated share payment of any CIWMB imposed fines that may be levied by the CIWMB against the Regional Agency for non-compliance with AB 939 diversion requirements, as otherwise specified in this Agreement.

**Section 2.7. Renaming Planning Elements.** The CIWMB-approved SRRE, HHWE, NDFE and Siting Element for the County unincorporated area and are herein named to be the County/City of Goleta Regional Agency SRRE, HHWE, NDFE, and Siting Element.



**Section 2.8. Indemnification.** (a) Each Member (the "Indemnifying Member") shall hold harmless the Reporting Authority and every other Member from and against any and all claims, expenses, liability or damage arising out of injury to persons, loss of life, or damage to property, or contractual claims which are attributable to any activity of the indemnifying Member or of any person acting under authority of the Indemnifying Member.

## **ARTICLE III**

### **POWERS**

**Section 3.1. General Powers.** The Authority shall have any and all powers authorized by law to both parties hereto and separately to the Regional Agency, relating to, and limited to, the Administration of joint County/City Integrated Waste Management planning and diversion reporting, based upon the administration of aggregated IWM Planning Elements and diversion reporting identified in the CIWMB approved County unincorporated area IWM Planning Elements.

(a) **Annual Reports and Diversion Reporting.** The Reporting Authority is authorized to prepare and submit on behalf of the Members all diversion reporting required by AB 939.

(b) **Member Action.** Unless otherwise provided in this Agreement, any action of a Member required or authorized in this Agreement shall be by resolution of the governing body of such Member.

**Section 3.2. Withdrawal.** A Member may withdraw from this Agreement by serving, by registered mail, on the Reporting Authority and each of the other Members a written resolution of the governing body of the withdrawing Member stating its intent to withdraw. Such withdrawal shall be effective one year after service of such notice on the other Members and the Reporting Authority. Withdrawal of a Party shall terminate this Agreement and the Authority as of the effective date of withdrawal. The parties may terminate the agreement at any time by mutual consent of the Parties.

Withdrawal of a Party, however, shall not relieve the withdrawing Party of any penalties that are the responsibility of the party.

### **Section 3.3. Termination of Authority.**

(a) **Causes.** The Authority shall terminate, and its assets be distributed in accordance with the provisions of this Agreement, upon withdrawal of either Party.

(b) **Members' Obligations Upon Termination.** In the event that this Agreement is terminated, each former Member will assume responsibility for a share of any AB 939 civil penalties incurred by the Reporting Authority during

the term of such Member. Each Member will also be responsible individually for any AB 939 civil penalties directly incurred by such Member. If this Agreement is terminated, each Party will assume responsibility for compiling its own disposal information for compliance with the monitoring and reporting system required pursuant to Public Resource Code sections 41780 and 41821.5, unless a subsequent regional agency formation agreement is approved specifically for this purpose. Each Member shall remain responsible for the implementation of the programs described in its respective SRRE and HHWE.

#### **Section 3.4. Member Duties and Responsibilities.**

##### **(a) General Duties and Responsibilities.**

(1) Each Member will be responsible for funding and/or implementing programs recommended for implementation in its jurisdiction and for continued support of the associated programs as adopted in its SRRE and HHWE. County will continue to provide programs under exclusive franchise agreements with private haulers, and will collect programs fees under the terms of the County exclusive franchise agreements.

(2) Each Member agrees to cooperate with the Authority and shall provide any information necessary for the preparation and completion of the Annual Report in a timely manner according to the schedule and format set by the Authority Manager.

(b) AB 939 Penalties. The Members hereby agree that the responsibility for any AB 939 civil penalties shall be assigned to the Reporting Authority. Should a penalty be assessed against the Reporting Authority for non-compliance after all administrative remedies are exhausted, the Members hereby authorize the Board to allocate proportionate responsibility for such fine among the Members based on the portion of the fine attributable to the failure of a Member to comply with reporting and diversion requirements of AB 939. If the Members cannot agree on such allocation, the fine shall be proportionally allocated based on the population of each Member.

### **ARTICLE IV**

#### **ORGANIZATION**

**Section 4.1. Members.** The Members of the Authority shall be the Members described in the introductory paragraph of this Agreement, and any public agency with powers common to those of such described Members with respect to the purposes and obligations of the Authority subsequently added as Members by amendment to this Agreement, which have executed this Agreement and all subsequent amendments, and have not withdrawn thereafter.

**Section 4.2. Board.**

**(a) Composition.**

(1) The Board of Directors shall consist of the two members of the Board of Supervisors and one member of the City Council.

(2) All representatives of Members on the Board shall be current members of the governing body of such Member and appointed by resolution of such body.

(3) Each Member shall appoint one or more current members of the governing body of such Member as alternate representatives and appointed by resolution of such body.

**(b) Voting.**

(1) Required Vote. All actions of the Board shall be by vote of the representatives of a majority of the Members present and voting, except as otherwise specifically provided herein.

(2) Proxy and Absentee Votes. Representatives of Members may not cast proxy or absentee votes.

(3) Abstentions. Representatives of Members shall vote on all matters presented to the Board for action unless an abstention is approved by unanimous vote of all other representatives of Members then present and voting, or is approved by an opinion of legal counsel for the Authority that a Member or its representative either has a prohibited conflict of interest, incompatibility of office or other legal basis for voting disqualification, or has a high probability of such conflict, incompatibility or disqualification, rendered in open session of the Board meeting, and together with the disclosure of such interest incompatibility or basis, entered in the minutes or other official record of such meeting. Any unapproved abstention shall be deemed to be an affirmative vote on the motion on which such abstention occurred.

(c) Fair Political Practices Act. The representatives of Members on the Board, shall be considered "public officials" within the meaning of the Fair Political Practices Act of 1974, as amended, and its regulations, for purposes of financial disclosure, conflict of interest and other requirements of such Act and regulations, subject to a contrary opinion or written advice of the California Fair Political Practices Commission.

(d) Principal Office. The principal office of the Authority shall be established within Santa Barbara County by the Board and may be changed from time to time in the same manner as originally established.

(e) Meetings.

(1) Time and Place. The Authority governing board shall not be required to hold regularly scheduled meetings, but shall meet as required in conformance with the Ralph M. Brown Act, Chapter 9, Part 1, Division 2, Title 5, of the Government Code, or in accordance with such other regulations as the legislature may hereafter provide. All Regional Agency Board meetings shall be scheduled on regular meeting days of the County Board of Supervisors.

(2) Quorum. Representatives of not less than a majority of the Directors of the Board shall constitute the quorum of the Board required to conduct the business of the Authority.

(f) Rules. The Board may adopt from time to time rules and regulations for the conduct of the Board and the affairs of the Authority consistent with this Agreement and all other applicable laws.

(g) Minutes. The Secretary of the Authority shall cause minutes of all regular, adjourned regular and special meetings of the Board to be drafted and mailed to each Member within ten (10) days after such meeting. Upon approval by the Board at a regularly called meeting thereafter, such minutes shall become a part of the official public records of the Authority.

(h) Manager. The Manager of the Authority shall be the Director of Solid Waste and Utilities Division of Public Works, County of Santa Barbara. The Manager shall be responsible to the governing board for the proper and efficient administration of the Authority.

## ARTICLE V

### MISCELLANEOUS

**Section 5.1. Amendment.** This Agreement may be amended with the approval of not less than two-thirds (2/3) of all Members. Changes or modifications to notification as designated in Section 5.2 herein shall not require an amendment of this agreement. Members may indicate changes to notification in Section 5.2 by sending a written request to the Regional Authority Manager.

**Section 5.2. Notice.** Any notice required by this Agreement shall be delivered to:

To the City: Fredrick C. Stouder, City Manager  
City of Goleta  
6500 Hollister Avenue, Suite 120  
Goleta, CA 93117  
Telephone: (805) 961-7561

Email: [fstouder@cityofgoleta.org](mailto:fstouder@cityofgoleta.org)

With a copy to: Julie Hayward Biggs, City Attorney  
Burke, Williams & Sorensen, LLP  
3403 Tenth Street, Suite 300  
Riverside, CA 92501-3629  
Telephone: (909) 788-0100  
Email: [jbiggs@bwslaw.com](mailto:jbiggs@bwslaw.com)

To the County: Philip M. Demery, Director of Public Works  
County of Santa Barbara  
109 E. Victoria Street  
Santa Barbara, CA 93101  
Telephone: (805) 568-3010  
Email:

With a copy to: Mark Schleich, Authority Manager  
County of Santa Barbara, Solid Waste & Utilities  
109 E. Victoria Street  
Santa Barbara, CA 93101  
Telephone: (805) 882-3603  
Email:

All notices or other communications required or permitted hereunder shall be in writing and shall be delivered personally (including by means of messenger service) or sent by express mail or registered or certified U.S. mail, return receipt requested and by electronic mail. Notices delivered personally or by express mail or by electronic mail shall be considered given when delivered. Notices sent by registered or certified mail shall be considered given two (2) business days after deposit in the United States mail, postage prepaid, addressed to the person to receive such notice.

The Members may from time to time give notice of a change of name or address, and all notices shall thereafter be given in accordance with such change. Any electronically transmitted notice shall be in addition to, and shall not be in lieu of, written mailed notice as provided above.

The address of the Reporting Authority shall be the same as the current notice address for the County.

**Section 5.3. Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the respective Parties hereto, provided that no Party shall assign any rights, nor delegate any duties provided for hereby without the consent of the other Parties.

**Section 5.4. Required Actions of the Parties.** The Parties hereto agree to execute all such instruments and documents and to take all actions as may be required in order to consummate the transactions herein contemplated.

**Section 5.5. Entire Agreement.** This Agreement contains the entire agreement between the Parties hereto with respect to the subject matter hereof, and supersedes all prior understandings and agreements, if any, whether written or oral.

**Section 5.6. Time of the Essence.** Time is of the essence of each and every term, condition, obligation and provision thereof.

**Section 5.7. Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California. Venue shall lie in the County of Santa Barbara, California.

**Section 5.8. No Waiver.** A waiver by any Party of the breach of any of the terms and conditions under this Agreement to be performed by any other Party shall not be construed as a waiver of any succeeding breach of the same terms and conditions of this Agreement.

**Section 5.9. Modifications.** Except as expressly allowed in the Agreement, any alteration, change or modification of or to this Agreement, in order to become effective, must be made in writing and in each instance signed on behalf of each Party.

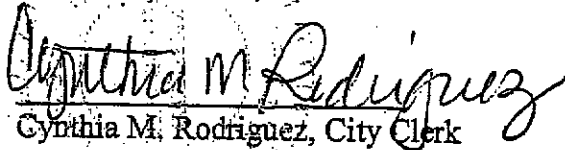
**Section 5.10. No Obligations to Third Parties.** Except as otherwise expressly provided herein, the provisions of this Agreement are intended to be solely for the benefit of the Parties, and execution and delivery of this Agreement shall not be deemed to confer any rights upon, or obligate any of the Parties, to any person or entity other than the Parties.

**Section 5.11. Counterparts.** This Agreement may be executed in one (1) or more counterparts, all of which together shall constitute a single agreement, and each of which shall be an original for all purposes.

[Signatures on the following page.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date and year above set forth.

ATTEST:

  
Cynthia M. Rodriguez, City Clerk

CITY OF GOLETA

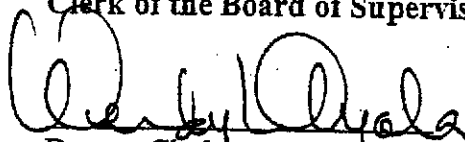
  
Jack Hawxhurst, Mayor, City of Goleta

Approved as to Form:

  
Julie Biggs, City Attorney

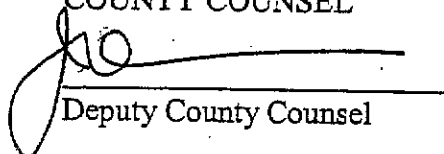
ATTEST:

MICHAEL BROWN  
Clerk of the Board of Supervisors

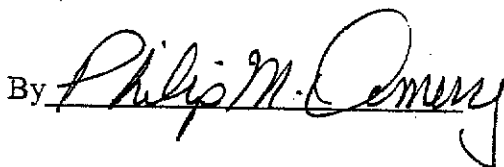
  
Deputy Clerk

Approved as to Form:

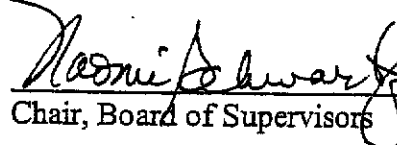
STEPHEN SHANE STARK  
COUNTY COUNSEL

  
Deputy County Counsel

APPROVED AS TO FORM  
PHILLIP DEMERY, DIRECTOR  
PUBLIC WORKS DEPARTMENT

By 

COUNTY OF SANTA BARBARA

  
Chair, Board of Supervisors

Approved as to Accounting Form:

ROBERT W. GEIS  
AUDITOR - CONTROLLER

  
Deputy Auditor - Controller

APPROVED AS TO LIABILITY  
JOHN FORNER, RISK ANALYST  
RISK MANAGEMENT

By 